IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

WP(C).No. 21530 of 2007(K)

PETITIONER:

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1. ERIYANDAN SAIDALIKUTTY,
   S/O.KUNHALAN,ERIYADAN HOUSE,
   P.O EDARIKODE,MALAPPURAM DISTRICT.

2. NOUFEL, S/O.LATE NASSER,
   KUNHALAN,ERIYADAN HOUSE,
   P.O EDARIKODE,MALAPPURAM DISTRICT.

BY ADV. SRI.P.CHANDRASEKHAR

RESPONDENTS:

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1. THE DISTRICT COLLECTOR, MALAPPURAM.

2. THE ADDITIONAL TAHSILDAR,TIRUR

3. THE TALUK SURVEYOR,TRIRUR.

4. THE HEAD SURVERYOR-II, TRIRUR.

BY GOVERNMENT PLEADER SRI. I.V. PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO.21530 OF 2001

DATED THIS THE 12th DAY OF JULY, 2007

JUDGMENT

The petitioners challenge Ext.P5 notice by which they have been directed to show cause against dispossession of the properties mentioned in Ext.P5. The contention of the petitioners is that although Ext.P5 is only a show cause notice, the petitioners have been told that they would be dispossessed before 16.7.2007. According to the petitioners, the respondents cannot do so without passing a speaking order considering the objections of the petitioners against Ext.P5.

2. I have heard the learned Government pleader also. When a notice to show cause is issued, the 2nd respondent has a duty to consider the objections to be filed by the petitioners against Ext.P5 after affording an opportunity of being heard to the petitioners including an opportunity to adduce evidence. The petitioners are also entitled to get a copy of the order passed pursuant thereto before the petitioners can be evicted from the property. In the above circumstances, the writ petition is disposed of as follows:

The petitioners shall file objections to Ext.P5 within one week from today. The 2nd respondent shall consider those objections in the

light of the evidence to be submitted by the petitioners for which the petitioners shall be afforded an opportunity. The petitioners shall also be given an opportunity of being heard. Thereafter, the 2nd respondent shall pass a speaking order meeting the objections of the petitioners as also the evidence to be produced by them. The petitioners shall not be evicted until after seven days from the date of communication of the order to be passed by the 2nd respondent to the petitioners.

S. SIRI JAGAN, JUDGE

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